



# UNITED STATES PATENT AND TRADEMARK OFFICE

*CL*

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,383	09/16/2003	Juergen Floege	21401-662 (CURA 962)	5518
55111	7590	09/11/2006	EXAMINER	
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C. ONE FINANCIAL CENTER BOSTON, MA 02111			HUYNH, PHUONG N	
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/665,383

Applicant(s)

FLOEGE ET AL.

Examiner

Phuong Huynh

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-7, 22-28 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-7, 22-28 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/4/06</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-3, 6-7, 22-28 and 31-33 are pending.
2. The following new grounds of rejections are necessitated by the amendment filed 6/15/06.
3. The following is a quotation of the first paragraph of 35 U.S.C. 112:  

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1-3, 6-7, 22-28 and 31-33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is apparent that the fully human monoclonal antibody 6.4, 1.9, 1.19, 1.22 and 1.29 produced by hybridoma recited in claims 1 and 25 are required to practice the claimed invention. As a required element, it must be known and readily available to the public or obtainable by a repeatable method set forth in the specification.

If it is not so obtainable or available, a deposit of hybridoma cell lines producing said monoclonal antibodies may satisfy the enablement requirements of 35 U.S.C. 112, first paragraph. See 37 CFR 1.801-1.809.

If the deposit has been made under the terms of the Budapest Treaty, an affidavit or declaration by applicants or someone associated with the patent owner who is in a position to make such assurances, or a statement by an attorney of record over his or her signature, stating that the hybridoma secreting said antibodies have been deposited under the Budapest Treaty and that the hybridoma will be irrevocably and without restriction or condition released to the public upon the issuance of a patent would satisfy the deposit requirement made herein. See 37 CFR 1.808.

If the deposit has not been made under the Budapest Treaty, then an affidavit or declaration by applicants or someone associated with the patent owner who is in a position to make such assurances, or a statement by an attorney of record over his or her signature must be

Art Unit: 1644

made, stating that the deposit has been made at an acceptable depository and that the criteria set forth in 37 CFR 1.801-1.809, have been met.

Amendment of the specification to recite the date of deposit for hybridoma producing said antibodies 6.4, 1.9, 1.19, 1.22 and 1.29 and the complete name and address of the depository is required.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The “method ...*further* comprises a human kappa light chain” in claim 26 is indefinite and ambiguous because the neutralizing antibody in the based claim 25 is a *fully* human anti-PDGF-DD antibody mAb 6.4 or fully human monoclonal antibody mAb 1.9, 1.19, 1.22 and 1.29. Since the antibody is *fully* human antibody and by convention, said antibody comprises a fully human heavy and fully human light chain, it is not clear as to why such antibody “further comprises a human kappa light chain” in dependent claim 26. One of ordinary skill in the art cannot appraise the metes and bound of the claimed invention.

7. No claim is allowed.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1644

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (571) 273-8300.
10. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

September 1, 2006

  
CHRISTINA CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600